THE MYSORE SLUM AREAS (IMPROVEMENT AND CLEARANCE) ACT, 1958.

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MYSORE ACT No. 8 OF 1959

(*First published in the* Mysore Gazette *on the Eighteenth day of June* 1959).

THE MYSORE SLUM AREAS (IMPROVEMENT AND CLEARANCE ACT, 1958.

(AMENDED BY ACT 15 OF 1960)

(*Received the assent of the President on the Ninth day of June* 1959)

AN ACT TO PROVIDED FOR THE IMPROVEMENT AND CLEARANCE OF SLUM AREAS IN THE STATE OF MYSORE AND FOR THE PROTECTION OF TENANTS IN SUCH AREAS FROM EVICTION.

WHEREAS it is expedient to provide for the improvement and clearance of slum areas in the State of Mysore and for the protection of tenants in such areas from eviction;

BE it enacted by the Mysore State Legislature in the Ninth Year of he Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Mysore Slum Areas (Improvement and Clearance) Act, 1958.

(2) It extends to the whole of the State of Mysore.

(3) It shall come into force at once in the areas specified in the First Schedule; and it shall come into force in such other area of the State on such date as the State Government may, by notification in the official Gazette, specify.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "building" includes any structure or erection or any part of a building as so defined but does not include plant or machinery comprised in a building;

(*b*) "competent authority" means such officer or authority as the State Government may, by notification in the official Gazette, appoint as the competent authority for the purposes of this Act for such area as may be specified in such notification ;

(*c*) "erection" in relation to a building includes extension, alteration or re-erection ;

(*d*) "occupier" includes an owner in occupation of or otherwise using his own land or building ;

(*e*) "owner" includes any person who is receiving or is entitled to receive the rent of any building or land whether on his own account or on behalf of himself and others or as agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant ;

(*f*) "prescribed" means prescribed by rules made under this Act ;

(*g*) "slum clearance" means the clearance of any slum area by the demolition and removal of building s there from, and

(*h*) "work of improvement" includes in relation to any building in a slum area the execution of any one or more of the following works, namely :—

(i) necessary repairs ;
(ii) structural alterations ;
(iii) provision of light points and water taps ;
(iv) construction of drains, open or covered ;
(v) provision of latrines ;
(vi) provision of additional or improved fixtures or fittings ;
(vii) opening up or paving of courtyards ;
(viii) removal of rubbish ; and
(ix) any other work including the demolition of any building or any part thereof which in the opinion of the competent authority is necessary for executing any of the works specified above.

CHAPTER II

Slum Areas

3. *Declaration of slum areas.*—[1][(1) Where the competent authority upon report from any of its officers or other information in its possession is satisfied that—

(*a*) any area is or may become a source of danger to the public health, safety or convenience of residents in that area or in its

1. Sub. by Act 15 of 1960.

neighbourhood, by reason of the area being low-lying, insanitary, squalid or otherwise ; or

(*b*) the buildings in any area, used or intended to be used for human habitation—

(i) are in any respect unfit for human habitation ; or

(ii) are, by reason of dilapidation, overcrowding, faulty arrangement or design, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals ;

it may, by notification in the official Gazette, declare such area to be a slum area.

(2) In determining whether a building is unfit for human habitation for the purposes of this Act, regard shall be had to its condition in respect of the following matters, that is to say—

(*a*) repair ;
(*b*) stability ;
(*c*) freedom from damp ;
(*d*) natural light and air ;
(*e*) water supply ;
(*f*) drainage and sanitary conveniences ;
(*g*) facilities for storage, preparation and cooking of food and for the disposal of waste water ;

and the building shall be deemed to be unfit as aforesaid if and only if it is so far defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

[1][CHAPTER II-A

CONTROL OF BUILDINGS IN SLUM AREA

3A. *Buildings in a slum area to be registered.*—(1) (i) In respect of any area declared as a slum area under section 3, before the commencement of the Mysore Slum Areas (Improvement and Clearance) Amendment Act, 1960, within sixty days from the commencement of the said Act, and

(ii) in respect of any area, declared as a slum area under section 3, after the commencement of the said Act, withn sixty days from the date of such declaration,

1. Inserted by Act 15 of 1960.

the owner of every building in such slum area shall apply to the competent authority for the registration of every such building and also furnish to the said authority such particulars as may be required by it.

(2) (i) In respect of any area declared as slum area before the commencement of the Mysore Slum Areas (Improvement and Clearance) Amendment Act, 1960, as soon as may be convenient after such commencement, and

(ii) in respect of any area declared as a slum area under section 3 after the commencement of the said Act, as soon as may be convenient after such declaration,

the competent authority shall—

(*a*) prepare records for the slum area comprising of a plan of the slum area and a register enumerating every building thereon with adequate particulars thereof; and

(*b*) issue to the owner of every building in the slum area a registration card, showing the particulars of the building concerned.

3B. *Control of new building and additions or alterations to buildings in a slum area.*—Notwithstanding anything contained in any other law for the time being in force, no person shall—

(i) in respect of any area declared as a slum area under section 3 before the date of commencement of the Mysore Slum Areas (Improvement and Clearance) Amendmnt Act, 1960, after the date of such commencement; and

(ii) in respect of any area declared as a slum area under section 3 after the commencement of the said Act, subsequent to the date of declaration of such area as a slum area,

erect any new building in such slum area, or make any addition to or any alteration in any building already existing on the said date in such slum area, except with the previous permission in writing of the competent authority and subject to such restrictions or conditions as may be imposed by the said authority.

CHAPTER III

Slum Improvement

4. *Power of competent authority to require improvement of buildings unfit for human habitation.*—(1) Where the competent authority upon report from any of its officers or other information

in its possession is satisfied that any building in a slum area is in any respect unfit for human habitation, it may, unless in its opinion the building is not capable at a reasonable expense of being rendered so fit, serve upon the owner of the building a notice requiring him within such time not being less than thirty days as may be specified in the notice to executive the works of improvement specified therein and stating that in the opinion of the authoriy those works will render the building fit for human habitation.

(2) In addition to serving a notice under this section on the owner, the competent authority may serve a copy of the notice on any other person having an interest in the building whether as lessee. mortgagee or otherwise.

(3) In determining, for the purposes of this Act, whether a building can be rendered fit for human habitation at a reasonable expense, regard shall be had to the estimated cost of the works necessary to render it so fit and the value which it is estimated that the building will have when the works are completed.

5. *Enforcement of notice requiring execution of works of improvement.*—(1) If a notice under section 4 requiring the owner of the building to execute works of improvement is not complied with, then, after the expiration of the time specified in the notice the competent authority may itself do the works required to be done by the notice.

(2) All expenses incurred by the competent authority under this section together with interest, at such rate as the Government may by order fix, from the date when a demand for the expenses is made until payment, may be recovered by the competent authority from the owner of the building as arrears of land revenue :

Provided that if the owner proves that he—

(*a*) is receiving the rent merely as agent or trustee for some other person ; and

(*b*) has not in his hands on behalf of that other person sufficient money to satisfy the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has in his hands as aforesaid.

[1][(2-A) Notwithstanding anything contained in any other law for the time being in force, all expenses incurred by the competent authority under this section shall constitute a first charge on the building concerned.]

1. Inserted by Mysore Act 15 of 1966.

(3) If the owner of the building is different from the person who owns the land on which the building stands and the expenses incurred by the competent authority under this section are recoverable from both these persons, then, such expenses shall be recovered from them in such proportion as may be determined by the competent authority or by an officer empowered by it in this behalf.

6. *Expenses of maintenance of works of improvement, etc., to be recoverable from the occupiers of buildings.*—Where works of improvement have been executed in relation to any building in a slum area in pursuance of the provisions of sections 4 and 5, the expenses incurred by the competent authority in connection with the maintenance of such works of improvement or provision of amenities and conveniences rendered possible by such works shall be recoverable from the occupier or occupiers of the building as arrears of land revenue.

7. *Power of competent authority to order demolition of buildings unfit for human habitation.*—(1) Where a competent authority upon a report from any of its officers or other information in its possession is satisfied that any building within a slum area is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, it shall serve upon the owner of the building, and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause within such time as may be specified in the notice as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1), appears in pursuance thereof before the competent authority and gives an undertaking to the authority that such person shall within a period specified by the authority execute such works of improvement in relation to the building as will in the opinion of the authority render the building fit for human habitation, or that it shall not be used for human habitation until the authority on being satisfied that it has been rendered fit for that purpose cancels the undertaking, the authority shall not make any order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if in a case where any such undertaking has been given any work of improvement to which the undertaking relates is not carried out within the specified period, or the building is at any time used in contravention of the terms of the undertaking, the competent authority shall forthwith make an order of demolition of the building requiring that the building shall be vacated within a period to

be specified in the order not being less than thirty days from the date of the order, and that it shall be demolished within six weeks after the expiration of that period.

8. *Procedure to be followed where demolition order has been made.*—(1) Where an order of demolition of a building under section 7 has been made, the owner of the building or any other person having an interest therein shall demolish that building within the time specified in that behalf by the order; and if the building is not demolished with that time the competent authority shall enter and demolish the building and sell the materials thereof.

(2) Any expenses incurred by the competent authority under sub-section (1), if not satisfied out of the proceeds of sale of materials of the building shall be recoverable from the owner of the building or any other person having an interest therein as arrears of land revenue.

CHAPTER IV

Slum Clearance and Re-development

9. *Power to declare any slum area to be a clearance area.*—(1) Where the competent authority upon a report from any of its officers or other information in its possession is satisfied as respects any slum area that the most satisfactory method of dealing with the conditions in the area is the demolition of all the buildings in the area, the authority shall by an order notified in the official Gazette declare the area to be a clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Act:

Provided that any building in the area which is not unfit for human habitation or dangerous or injurious to health may be excluded from the declaration if the authority considers it necessary.

(2) The competent authority shall forthwith transmit to the State Government a copy of the declaration under this section together with a statement of the number of persons who on a date specified in the statement were occupying buildings comprised in the clearance area.

10. *Slum clearance order.*—(1) As soon as may be after the competent authority has declared any slum area to be a clearance area, it shall make a slum clearance order in relation to that area ordering the demolition of each of the buildings specified therein and requiring each such building to be vacated within such time as may

be specified in the order and submit the order to the State Government for confirmation.

(2) The State Government may confirm the order either *in toto* or subject to such variations as it considers necessary or reject the order.

(3) If the State Government confirms the order either *in toto* or subject to variations, the order shall become operative from the date of such confirmation.

(4) When a slum clearance order has become operative the owners of buildings to which the order applies shall demolish the buildings before the expiration of six weeks from the date on which the buildings are required by the order to be vacated or before the expiration of such longer period as in the circumstances of the case the competent authority may deem reasonable.

(5) If the buildings are not demolished before the expiration of the period mentioned in sub-section (4), the competent authority shall enter and demolish the buildings and sell the materials thereof.

(6) Any expenses incurred by the competent authority in demolishing any building shall, if not satisfied out of the proceeds of sale of materials thereof, be recoverable by the competent authority as arrears of land revenue.

(7) Where a slum clearance order has become operative, no land to which the order applies shall be re-developed except in accordance with plans approved by the competent authority and except subject to such restrictions and conditions, if any, as the competent authority may think fit to impose:

Provided that an owner who is aggrieved by a restriction or condition so imposed on the user of his land or by a subsequent refusal of the competent authority to cancel or modify any such restriction or condition may at any time appeal to the State Government and the State Government shall make such order in the matter as it thinks proper and its decision shall be final.

(8) No person shall commence or cause to be commenced any work in contravention of a plan approved or a restriction or condition imposed under sub-section (7).

11. *Power of competent authority to re-develop clearance area or any part thereof.*—Where land has been cleared of buildings in accordance with a slum clearance order, the competent authority may, at any time after the expiration of twelve months from the date on which the order became operative, by order, determine to

re-develop any land which on the date of the making of the order has not been, or is not in the process of being, re-developed by the owner thereof in accordance with plans approved by the authority and any restrictions and conditions imposed under sub-section (7) of section 10.

CHAPTER V

Acquisition of Land

12. *Power of State Government to acquire land.*—[1][(1) Where on any representation from the competent authority it appears to the State Government that, in order to enable the authority to execute any work of improvement in relation to any building in a slum area or to form or widen lanes and roads therein, or to re-develop any clearance area, or to rehabilitate slum dwellers it is necessary to acquire—

(*a*) any land within, adjoining or surrounded by any such slum area or clearance area ; or

(*b*) any other land in any locality ;

the State Government may acquire the land by publishing in the Official Gazette a notice to the effect that the State Government has decided to acquire the land in pursuance of this section :

Provided that, before publishing such notice, the State Government may call upon the owner, or any other person who, in the opinion of the State Government may be interested in, such land to show cause why it should not be acquired ; and after considering the cause, if any, shown by the owner or any other person interested in the land, the State Government may pass such order as it may deem fit.]

(2) When a notice as aforesaid is published in the official Gazette, the land shall, on and from the date on which the notice is so published, vest absolutely in the State Government free from all encumbrances.

13. *Land acquired by State Government to be made available to the competent authority.*—Where any land has been acquired under section 12, the State Government shall make the land available to the competent authority for the purpose of executing any work of improvement or carrying out any order of demolition or for the purpose of re-development.

1. Sub. by Act 15 of 1960.

14. *Right to receive compensation.*—Every person having any interest in land acquired under this Act shall be entitled to receive from the State Government compensation as provided hereafter in this Act.

[1][15. *Basis for determination of compensation.*—(1) The amount payable as compensation in respect of any land acquired under this Act shall be determined in the manner specified in sub-section (2).

(2) (*a*) In respect of any land within, adjoining or surrounded by any slum area or clearance area.

(i) the amount payable as compensation shall be an amount equal to sixty times the net average monthly income actually derived from such land during the period of five consecutive years immediately preceding the date of publication of the notice referred to in section 12; and

(ii) the net average monthly income referred to above shall be calculated in accordance with the principles and in the manner set out in the Second Schedule.

(*b*) In respect of any other land, the amount payable as compensation shall be an amount equal to the market value of such land on the date of publication of the notice under section 12:

Provided that the amount payable under clause (*a*) or clause (*b*) shall not be in excess of the market value of the land or similar land on the first day of July 1959.

(3) The prescribed authority shall, after holding an inquiry in the prescribed manner, determine in accordance with the provisions of sub-section (2) the amount payable as compensation and publish a notice in the Official Gazette specifying the amount so determined and calling upon the owner of the land and every person interested therein to intimate to it before a date specified in the notice whether such owner or person agrees to the amount so determined and if he does not so agree, what amount he claims to be the amount payable as compensation.

(4) Any person who does not agree to the amount of compensation determined by the prescribed authority under sub-section (3) and claims a sum in excess of that amount may prefer an appeal to the Court of the District Judge having jurisdiction within thirty days from the date specified in the notice referred to in that sub-section.

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1. Sub. by Act 15 of 1960.

(5) On appeal, the Court of the District Judge shall, determine the amount of compensation and its determination shall be final.

(6) Where there is any building on the land in respect of which the amount of compensation has been determined under clause (a) of sub-section (2), no separate compensation shall be paid in respect of such building:

Provided that where the owner of the land and the owner of the building on such land are different, the prescribed authority shall apportion the amount of compensation between the owner of the land and the owner of the building in such proportion as it considers reasonable:

Provided further that the compensation in respect of the building shall not in any case exceed fifty per cent of the total amount of compensation which has been determined in accordance with the provisions of this Section.]

16. *Apportionment of compensation.*—(1) Where several persons claim to be interested in the amount of compensation determined under section 15, the prescribed authority shall determine the persons who in its opinion are entitled to receive compensation and the amount payable to each of them.

(2) If any dispute arises as to the apportionment of compensation or any part thereof, or as to the persons to whom the same or any part thereof is payable, the prescribed authority may refer the dispute to the decision of the Court of the District Judge having jurisdiction; and the Court of the District Judge in deciding any such dispute shall follow, as far as may be, the provisions of Part III of [1][the Mysore Land Acquisition Act, 1894.

17. *Payment of compensation or deposit of the same in court.*—(1) After the amount of compensation has been determined, the competent authority shall on behalf of the State Government tender payment of and pay the compensation to the persons entitled thereto.

(2) If the persons entitled to compensation do not consent to receive it or if there be any dispute as to the title to receive compensation or as to the apportionment of it, the competent authority shall deposit the amount of the compensation in the Court of the District

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1. Now see the Land Acquisition (Mysore Extension and Amendment) Act, 1961 (17 of 1961).

Judge and that court shall deal with the amount so deposited in the manner laid down in sections 32 and 33 of the [1][Mysore Land Acquisition Act, 1894.

18. *Powers of prescribed authority in relation to determination of compensation, etc.*—(1) The prescribed authority may, for the purpose of determining the amount of compensation or apportionment thereof, require, by order, any person to furnish such information in his possession as may be specified in the order.

(2) The prescribed authority shall, while holding inquiry under section 15, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;
(*b*) requiring the discovery and production of any document ;
(*c*) reception of evidence on affidavits ;
(*d*) requisitioning any public record from any court or office ;
(*e*) issuing commissions for examination of witnesses.

[2][18-A. *Use of land acquired.*—(1) Where any land has been acquired under this Act, the State Government shall undertake or cause to be undertaken such measures as may be necessary for the improvement, development, clearance or re-development of the land or the erection of buildings thereon, in accordance with such plan as may be approved by it :

Provided that where any such land or any portion thereof is in the opinion of the State Government unsuitable for the purposes mentioned above, on the ground that the use of the land or portion for such purposes will not be in the interest of orderly town planning, the framing of any master plan or the division of the town into different zones or on the ground that the area of the land or portion is small, or on any other ground, the State Government may use it or allow it to be used for such public purposes as it may deem fit.

(2) Any sites or buildings on such land may be allotted or leased for the accommodation of slum dwellers and of persons of such low income groups, on such terms and conditions as may be prescribed :

Provided that except as otherwise provided in this Act, no portion of any land acquired under this Act shall be permanently granted, sold or alienated in favour of any person or persons.

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1. Now see Mysore Act 17 of 1961.
2. Inserted by Act 15 of 1960.

(3) (i) For the purpose of undertaking the measures referred to in sub-section (1), the State Government may either hold the land under its ownership, control and management, and execute such measures itself or through any agency on such terms and conditions as may be determined by it or where a local authority undertakes to execute the measures and pay the cost of acquisition transfer the land to such local authority concerned, for the said purpose.

(ii) where the land is transferred as provided in clause (i),—

(*a*) such land shall vest in the local authority concerned, and such authority shall be liable to pay the cost of acquisition of the land or such portion thereof as the State Government may fix in each case ; and

(*b*) the local authority shall execute the measures referred to in sub-section (1), in accordance with such plans as may be approved by the State Government, and subject to such directions as may be given, from time to time, by the State Government ; and shall, in the use of the land and in all connected matters, be bound by the provisions of this Act.

Explanation.—For purposes of this sub-section, " local authority" means the Corporation of the City of Bangalore, the Board of Trustees for the improvement of the City of Bangalore or the City of Mysore or a Municipal Council].

CHAPTER VI

Protection of tenants in slum areas from eviction

19. *Tenants in slum areas not to be evicted without permission of the competent authority.*—(1) Notwithstanding anything contained in any other law for the time being in force, no person who has obtained any decree or order for the eviction of a tenant from any building in a slum area shall be entitled to execute such decree or order except with the previous permission in writing of the competent authority.

(2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the competent authority in such form and containing such particulars as may be prescribed.

(3) On receipt of such application the competent authority after giving an opportunity to the tenant of being heard and after making such summary inquiry into the circumstances of the case as it thinks fit, shall by order in writing either grant such permission or refuse to grant such permission.

(4) Where the competent authority refuses to grant the permission it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant.

20. *Appeals.*—Any person aggrieved by an order of the competent authority refusing to grant the permission referred to in sub-section (1) of section 19 may, within thirty days from the date of receipt of copy under sub-section (4) of that section, prefer an appeal to the Divisional Commissioner and the decision of the Divisional Commissioner on such appeal shall be final.

21. *Chapter not to apply to eviction of tenants from cetain buildings.*—Nothing in this Chapter shall apply to or in relation to the execution of any decree or order under any law for the eviction of a tenant from any building in a slum area, belonging to the State Government, the City of Bangalore Improvement Trust Board or the City of Mysore Improvement Trust Board or any local authority.

CHAPTER VII

Miscellaneous

22. *Power of entry.*—It shall be lawful for any person authorised by the competent authority in this behalf to enter into or upon [1][any land or building in any slum area or in its neighbourhood or in any area where the competent authority has reason to believe that conditions of the nature mentioned in section 3 prevail with or without assistances of workman] in order to make any inquiry, inspection, measurement, valuation or survey, or to execute any work which is authorised by or under this Act or which it is necessary to execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule or order made thereunder.

23. *Power of inspection.*—(1) The competent authority may, by general or special order, authorise any person—

(*a*) to inspect any drain, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in a slum area.

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1. Inserted by Mysore Act 15 of 1960.

and in his discretion to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be;

(*b*) to examine works under construction in the slum area, to take levels or to remove, test, examine, replace or read any meter.

(2) If, on such inspection, the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building but if it is found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain or other work opened, injured or removed for the purpose of such inspection shall be filled in, reinstated, or made good, as the case may be, by the competent authority.

24. *Power to enter land adjoining land where work is in progress.*—(1) Any person authorised by the competent authority in this behalf may, with or without assistants or workmen, enter on any land within fifty yards of any work authorised by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purposes connected with the carrying on of the same.

(2) The person so authorised shall, before entering on any land under sub-section (1), state the purpose thereof, and shall, if so required by the occupier, or owner, fence off so much of the land as may be required for such purpose.

(3) The person so authorised shall in exercising any power conferred by this section, do as little damage, as may be, and compensation shall be payable by the competent authority to the owner or occupier of such land or to both for any such damage whether permanent or temporary.

25. *Breaking into buildings.*—It shall be lawful for any person authorised by the competent authority in this behalf to make any entry into any place, to open or cause to be opened any door, gate or other barrier,—

(*a*) if he considers the opening thereof necessary for the purpose of such entry; and

(*b*) if the owner or occupier is absent or being present refuses to open such door, gate or barrier.

26. *Entry to be made in the day time.*—No entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

27. *Owner's consent ordinarily to be obtained.*—No building or land shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than twenty-four hours' written notice of the intention to make such entry :

Provided that no such notice shall be necessary if the place to be inspected is a shed for cattle or a latrine, urinal or a work under construction.

28. *Power of eviction to be exercised only by the competent authority.*—Where the competent authority is satisfied either upon a representation from the owner of a building or upon other information in its possession that the occupants of the building have not vacated it in pursuance of any notice, order, or direction issued or given by the authority, the authority shall, by order, direct the eviction of the occupants from the building in such manner and within such time as may be specified in the order :

Provided that before making any order under this section the competent authority shall give a reasonable opportunity to the occupants of the building to show cause why they should not be evicted therefrom.

29. *Power to remove offensive or dangerous trades from slum areas.*—The competent authority may, by order in writing, direct any person carrying on any dangerous or offensive trade in a slum area to remove the trade from that area within such time as may be specified in the order :

Provided that no order under this section shall be made unless the person carrying on the trade has been afforded a reasonable opportunity of showing cause as to why the order should not be made.

30. *Appeals.*—(1) Except as otherwise expressly provided in this Act, any person aggrieved by any notice, order or direction issued or given by the competent authority may appeal to the Divisional Commissioner within a period of thirty days from the date of issue of such notice, order or direction.

(2) Every appeal under this Act shall be made by petition in writing accompanied by a copy of the notice, order or direction appealed against.

(3) On the admission of an appeal all proceedings to enforce the notice, order or direction and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and if the notice, order or direction is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

(4) No appeal shall be decided under this section unless the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.

(5) The decision of the Divisional Commissioner on appeal shall be final and shall not be questioned in any court.

31. *Service of notices, etc.*—(1) Every notice, order or direction issued under this Act shall, save as otherwise expressly provided in this Act, be served—

(*a*) by giving or tendering the notice, order or direction, or by sending it by post to the person for whom it is intended; or

(*b*) if such person cannot be found, by affixing the notice, order or direction on some conspicuous part of his last known place of abode or business, or by giving or tendering the notice, order or direction to some adult male member or servant of his family or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.

(2) Where the person on whom a notice, order or direction is to be served is a minor, service upon his guardian or upon any adult male member or servant of his family shall be deemed to be service upon the minor.

(3) Every notice, order or direction which by or under this Act is to be served as a public notice, order or direction or as a notice, order or direction which is not required to be served on any individual therein specified shall, save as otherwise expressly provided, be deemed to be sufficiently served if a copy thereof is affixed in such conspicuous part of the office of the competent authority or in such other public place during such period, or is published in such local newspaper or in such other manner, as the competent authority may direct.

32. *Penalties.*—[1][(1) Whoever does any act in contravention of any of the provisions of this Act or of any rules made thereunder or of any notice, order or direction issued, made, or given under this Act shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

[1][(2) Whoever after having been convicted for an offence under sub-section (1) continues to do the said act in contravention of the said provision of the Act rule, notice, order or direction, as the case may be, shall be punishable for each day after the date of conviction during which he continues to do the said act, with fine which may extend to one hundred rupees.]

(3) Whoever obstructs the entry of any person authorised under this Act to enter into or upon any building or land or molests such person after such entry shall be punishable with fine which may extend to one thousand rupees.

(4) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due deligence to prevent the commission of such offence.

(5) Notwithstanding anything contained in sub-section (3) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) 'company' means a body corporate and includes a firm or other association of individuals ; and

(*b*) 'director' in relation to firm means a partner in the firm.

1. Substituted by Act 15 of 1960

33. *Order of demolition of buildings in certain cases.*—[1][Where any work or the erection of any building has been commenced, or is being carried out, or has been completed in contravention of any of the provisions of this Act or the rules made thereunder, or any notice, order or direction issued, made or given under the provisions of this Act, or any plan approved or any restriction or condition imposed under the provisions of this Act,] the competent authority may, in addition to any other remedy that may be resorted to under this Act, or under any other law, make an order directing that [1][such work or erection] shall be demolished by the owner thereof within such time not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the competent authority may itself [1][cause the work or erection to be demolished] and the expenses of such demolition shall be recoverable from the owner as arrears of land revenue:

Provided that no such order shall be made unless the owner has been given a reasonable opportunity of being heard.

34. *Jurisdiction of courts.*—No court inferior to that of a magistrate of the first class shall try any offence punishable under this Act.

35. *Previous sanction of the competent authority or officer authorised by it for prosecution.*—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the competent authority or an officer authorised by the competent authority in this behalf.

[2][35A. *Exercise of powers of competent authority by local authority.*—The State Government may by notification in the official Gazette direct that any power exercisable by the competent authority under this Act may also be exercised by such local authority in such cases and subject to such conditions, if any, as may be specified in such notification.

[2][35B. *Application of funds of local authority for slum areas improvement or clearance.*—Notwithstanding anything contained in any law for the time being in force it shall be lawful for a local authority to apply the funds of such authority for the prevention, improvement and clearance of slums, for the acquisition of slums and other lands and for the rehabilitation of slum dwellers in accordance with the provisions of this Act.]

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1. Substituted by Mysore Act 15 of 1960.
2. Inserted by Mysore Act 15 of 1960.

36. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the competent authority or against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

37. *Competent authority, etc., to be public servants.*—The competent authority and any person authorised by it under this Act and the prescribed authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

38. *Application of the Act to certain pending cases of acquisition.*—The provisions of this Act shall, if the State Government so direct, apply also to any case or cases in which proceedings have been started before the commencement of this Act for the acquisition of any land in a slum area under the [1][Mysore Land Acquisition Act, 1894 (Mysore Act VII of 1894), but no award has been made by the Deputy Commissioner under section 11 of the said Act before such commencement, as if—

(i) the notification published under sub-section (1) of section 4 of the said Act, or

(ii) the declaration made under section 6 of the said Act, or

(iii) the notice given under sub-section (1) of section 9 of the said Act,

were a notice to show cause against the acquisition of the land served by the State Government under the proviso to sub-section (1) of section 12 of this Act.

Explanation.—For purposes of this section, the reference to the [1][Mysore Land Acquisition Act, 1894, and to sections 4, 6, 9 and 11 of the said Act, shall in respect of the—

(i) Bombay Area, Madras Area and Coorg District be construed as a reference to the Land Acquisition Act, 1894 (Central Act 1 of 1894) and to sections 4, 6, 9 and 11 of that Act, and

(ii) Hyderabad Area be construed as a reference to the Hyderabad Land Acquisition Act, 1309 F. (Hyderabad Act IX of 1309 Fasli) and to sections 3, 5, 7 and 10 of that Act.

39. *Act to override other laws.*—The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law.

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2. Now see Mysore Act 17 of 1961.

40. *Power to make rules.*—(1) The State Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner of authentication of notices, orders and other instruments of the competent authority ;

(*b*) the preparation of plans for the re-development of any slum area, and matters to be included in such plans ;

(*c*) the form and manner in which applications for permission under sub-section (2) of section 19 shall be made and the fees to be levied in respect of such applications ;

(*d*) the procedure to be followed by the competent authority before granting or refusing to grant permission under section 19 ;

(*e*) any other matter which has to be, or may be, prescribed.

[1][(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be : so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule].

FIRST SCHEDULE

[*See sub-section* (3) *of section* 1.]

Municipal Areas of—

(1) Bagalkot
(2) Bangalore
(3) Bellary
(4) Davanagere
(5) Dharwar
(6) Hubli
(7) Mangalore
(8) Mercara
(9) Mysore
(10) Raichur.

1. Substituted by Mysore Act 15 of 1960.

SECOND SCHEDULE

(See section 15.)

PRINCIPLES FOR DETERMINATION OF THE NET AVERAGE MONTHLY INCOME

1. The prescribed authority shall first determine the gross rent actually derived by the owner of the land acquired including any building on such land during the period of five consecutive years referred to in sub-section (2) of section 15.

2. For such determination the prescribed authority may hold any local inquiry and obtain, if necessary, certified copies of extracts from the property tax assessment books of the municipal or other local authority concerned showing the rental value of such land.

3. The net average monthly income referred to in sub-section (2) of section 15 shall be sixty per cent of the average monthly gross rent which shall be one-sixtieth of the gross rent during the five consecutive years as determined by the competent authority under paragraph 1.

4. Forty per cent of the gross monthly rental referred to above shall not be taken into consideration in determining the net average monthly income but shall be deducted in lieu of the expenditure which the owner of the land would normally incur for payment of any property tax to the municipal or other local authority, for collection charges, income-tax or bad debts as well as for works of repair and maintenance of the buildings, if any, on the land.

5. Where the land or any portion thereof has been unoccupied or the owner has not been in receipt of any rent for the occupation of the land during the whole or any part of the said period of five years, the gross rent shall be taken to be the income which the owner would in fact have derived if the land had been leased out for rent during the said period and for this purpose the rent actually derived from the land during a period prior or subsequent to the period during which it remained vacant or from similar land in the vicinity shall be taken into account.